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INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Working paper prepared by the Secretariat

Summary

In the present working paper, the role of international cooperation in strengthening the rule of law is reviewed. It examines the present forms of and technical assistance, impediments to such activity, and the role of the United Nations crime prevention and criminal justice programme. The report presents an assessment of the possibilities of developing strategic alliances in order to increase the effectiveness of international cooperation in assisting individual states and the wider international community.

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INTRODUCTION

1. The Economic and Social Council, in its resolution 1992/24, decided that topic I of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders would be entitled: "International cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme in this field". This decision underlines the importance of the subject to individual States and to the international community.

2. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan in 1985, adopted the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order.[1] Its principles 36-47 stressed the need for increased cooperation among States in the prevention and control of crime by various means, such as extradition and legal assistance, the promotion of international standards, an increased role for international organizations in this field, including regional entities, and the delivery of technical cooperation to developing countries. In the Milan Plan of Action,[2] the Seventh Congress recognized the need for strengthened international cooperation and sought a review of the United Nations criminal justice programme with a view to setting priorities and ensuring a practical orientation.

3. These matters were further developed by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana in 1990, which considered a large number of substantive themes for which the modalities of international cooperation were proposed. It recommended, *inter alia*, in a draft resolution[3] subsequently adopted by the General Assembly in its resolution 45/107, the practical use by Member States of United Nations model treaties on criminal matters,[3] the establishment and operation of a United Nations criminal justice information network, and technical cooperation and assistance in the implementation of United Nations norms and guidelines, including an assessment of needs and the formulation and execution of projects.

4. Following the Ministerial Meeting on the creation of an effective United Nations Crime Prevention and Criminal Justice Programme,* held in Paris, from 21 to 23 November 1991, the General Assembly adopted its resolution 46/152, in which it recognized that criminality called for a concerted response from the international community aimed at preventing crime and recidivism, improving the functioning of criminal justice and law enforcement, and increasing respect for individual rights. The new programme was also to encompass training and upgrading of the skills of personnel working in the various areas of crime prevention and criminal justice, and technical assistance, including advisory services, particularly in respect of the planning, implementation and evaluation of crime prevention and criminal justice programmes, training and the use of modern communication and information techniques.

5. The Economic and Social Council, in its resolution 1992/22, adopted upon recommendation of the newly established Commission on Crime Prevention and Criminal Justice, made technical assistance a standing item on the agenda of the Commission, and gave the Secretariat the mandate to facilitate the coordination and planning of operational activities. Since then, the General Assembly, in its resolutions 47/91, 48/103 and

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*The General Assembly in section E of the programme of action of the United Nations crime prevention and criminal justice programme (Assembly resolution 46/152, annex, sect. II) defined the structure and management of the programme, comprising the Commission on Crime Prevention and Criminal Justice, the United Nations congresses on the prevention of crime and the treatment of offenders, and the organizational structure of the secretariat and of the programme (namely, at present, the Crime Prevention and Criminal Justice Branch). In section F, the support structure of the programme was outlined as follows: United Nations institutes for the prevention of crime and the treatment of offenders, the network of government-appointed national correspondents in the field of crime prevention and criminal justice, the Global Crime and Criminal Justice Information Network (now officially known as the United Nations Crime and Criminal Justice Information Network) and intergovernmental and non-governmental organizations.

49/158, and the Economic and Social Council, in its resolutions 1993/34 and 1994/22, have reaffirmed the need for increased technical cooperation activities.

6. The debates at the Ninth Congress under this topic should be an occasion for stocktaking: an assessment of the major needs in this field, compared with national and international possibilities for meeting them.[4] All five regional preparatory meetings preceding the Ninth Congress stressed the importance of international cooperation and called for enhanced efforts by the international community to assist countries in need.* Taking into account the recommendations of the regional preparatory meetings, this paper analyses the role of technical assistance in strengthening the rule of law. Present forms of international cooperation and technical assistance in crime prevention and criminal justice are reviewed, together with the impediments to such activities, focusing on the present and potential role of the United Nations crime prevention and criminal justice programme. The possibilities are then assessed of developing strategic alliances in order to increase the effectiveness of international cooperation in assisting individual States and the wider international community. In conclusion, proposals are put forward for action to strengthen international cooperation.

I. DEVELOPMENT, CRIMINAL JUSTICE AND THE NEED FOR INTERNATIONAL COOPERATION

7. One of the goals set out in Article 55 of the Charter of the United Nations is the promotion of conditions of economic and social progress, with a view to the creation of conditions of stability and well-being. Effective, efficient and fair criminal justice systems, based upon the rule of law, are essential to establishing and maintaining such conditions of social stability and peace. In accordance with Article 55, the United Nations has been assisting Member States in the development of an effective, efficient, and fair criminal justice system, based upon, and promoting respect, for the rule of law.**

8. The link between crime and development has been on the agenda of the United Nations congresses on the prevention of crime and the treatment of offenders for the last 20 years.[5] It was one of the main agenda items of the Seventh United Nations Congress in 1985, when the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order[1] were adopted.***

9. The recent report of the Secretary-General to the General Assembly on development and international economic cooperation, entitled "An agenda for development" (A/48/935) contains the statement that "Improving and enhancing governance is an essential condition for the success of any agenda or strategy for development. Governance may be the single most important development variable within the control of individual States".[6] The administration of criminal justice is one of the key components of governance. Without democracy, development will remain fragile and vulnerable. "Democracy is the only long-term means of both arbitrating and regulating the many ... social, economic and ethnic tensions."[6]

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*The reports of the regional preparatory meetings are contained in documents A/CONF.169/RPM.1/Rev.1 and Corr.1, A/CONF.169/RPM.2, A/CONF.169/RPM.3 and Corr.1, A/CONF.169/RPM.4 and A/CONF.169/RPM.5. A summary of all the recommendations of the regional preparatory meetings was contained in document E/CN.15/1994/L.20.

**The rule of law as employed in this report and in the context of criminal justice means the dominance of established codes of conduct and their use and acceptance, both among the agencies responsible for criminal justice and among the members of the community. With respect to the context of the term in human rights questions specifically, see the report of the Secretary-General on the strengthening of the rule of law (A/49/512).

***The General Assembly, in its resolution 40/32, paragraph 4, recommended the Guiding Principles for national, regional and international action, as appropriate.

10. Developing countries and countries in transition have particular difficulties in responding to the challenge of crime and rising crime rates, currently increasing worldwide at about 5 per cent annually.* Fundamental changes have undermined the operation of informal social control and the formal criminal justice system in many developing countries and countries in transition. Wars and internal conflicts have increased the number of internally displaced persons and the international flow of refugees.** In developing countries, the displacement of large portions of the population has placed the new massive number of rural-urban migrants effectively outside the traditional network of social control and traditional forms of justice. The new arrivals in the cities find only bleak prospects for education and employment.[7] In many instances, attempts at economic development have failed, leaving a legacy of a growing external debt. In some cases, internal conflicts and dysfunctional economic development have been so severe that a new concept has been coined to refer to countries on the verge of collapse: "failing nations".[8] Given the scale of such problems, it is understandable that the criminal justice system in many developing countries is ailing, being under-resourced and with under-trained staff.

11. In the countries in transition, the attempt to shift rapidly from State economies and single-party systems to market economies and multi-party democracies has been accompanied by fundamental political, economic and social changes. Recent events have reconfirmed the assumption that there is a close relationship between rapid, unplanned and dysfunctional economic and social change and rising criminality. In many instances, widespread unemployment, rapid inflation, and a disintegration of the social welfare, health and educational systems were the immediate consequences.

12. The weakened ability of many developing countries and countries in transition to respond effectively to crime has contributed to an increase in what is known as "ordinary" crime (for example theft, burglary, robbery and assault), and modern forms of crime (such as environmental crime and white collar crime) and in organized crime. The problems have been compounded by the growing transnationalization of crime, especially in its new and more sophisticated forms. Indeed, many of these developments have created an almost ideal climate for the growth of organized crime nationally and internationally.***

13. Furthermore, in many countries, endemic corruption and mismanagement have sapped much investment in development, endangering the success of international assistance generally, including the provision of aid and economic opportunities. Thus, the original focus of international cooperation on strengthening the economic and technical infrastructure of society, while ignoring the criminal justice system, has proved too narrow in two respects: first, the increasing burden of crime control in the recipient countries detracts in general from the success of international assistance. Secondly, crime, through corruption, has directly siphoned off part of the development assistance.

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*United Nations reports on crime trends suggest that the amount of reported crime is increasing worldwide at about 5 per cent annually, a rate of growth that is faster than that which could be attributed to population growth alone (see "World crime trends and justice: facts, figures and estimates", Resource Information Update, 15 November 1991). The preliminary results of the Fourth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (1986-1990) have confirmed this increase. (See the interim report by the secretariat on the results of the Fourth United Nations Survey of Crime Trends and Operations of the Criminal Justice System (1986-1990) (A/CONF.169/15)). Although statistics concerning reported crime may reflect actual criminality less accurately than, for example, victimization surveys, they do provide a reasonable measure of the amount of crime that the national criminal justice system must respond to, and thus a measure of the increase of pressures upon these systems.

**As one representative of a developing country has put it: "Crime accounts for the loss of many lives of innocent people and of property, as does war. But crime is a constant factor and is therefore more disastrous than war." (*Trends: The Global View of Crime and Justice*, a special issue of *Crime and Justice Letter*, United Nations Crime and Justice Information Network, November 1991, p. 4, reporting findings from the United Nations surveys of crime trends and operations of criminal justice systems.)

***A more detailed analysis of developments in organized crime is provided in the working paper prepared by the Secretariat under topic II on action against national and transnational economic and organized crime, and the role of criminal law in the protection of the environment: national experiences and international cooperation (A/CONF.169/5).

14. Consequently, in many countries, there is frustration on the part of the public with the perceived lack of efficiency in the existing system and the effectiveness of the criminal justice system. This may lead to a tendency to adopt, formally or informally, "extraordinary measures", ranging from minor breaches of regulations on, for example, search and seizure, to such serious violations as the use of torture and extra-legal, summary and arbitrary executions. The adoption of harsh and repressive approaches in criminal justice may exacerbate the crime problem and disrupt the delicate balance between effective crime control and democratic principles. All of this is occurring in a climate beset by financial restraint on the part of Governments. As a result, traditional standards of justice, including those reflected in United Nations standards and norms, are at risk.

15. The rule of law is the foundation stone on which criminal justice systems are built. The United Nations crime prevention and criminal justice programme, since its creation,* has been engaged in standard setting and dissemination as a prime means of strengthening the rule of law.** The future focus of the programme will take one step further and offer practical assistance in the implementation of these standards as a major contribution to strengthening the rule of law.

II. FORMS AND CONTENT OF INTERNATIONAL COOPERATION AND TECHNICAL ASSISTANCE IN CRIME PREVENTION AND CRIMINAL JUSTICE

16. In article 1, paragraph 3, of the Charter, it is stated that the general goal of international cooperation*** is to solve international problems of an economic, social, cultural or humanitarian character, and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. International cooperation could be directed at a variety of goals: economic reform, sustainable development of the environment, reform of the economy, social welfare, in fact, anything that promotes political and social stability. From a crime prevention and criminal justice

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*For a history of the programme see United Nations Crime Prevention and Criminal Justice *Newsletter*, Nos. 20/21 (June 1993) (special double issue on the history and achievements of the United Nations in the field of crime prevention and criminal justice up to 1 February 1992; and *Newsletter*, Nos. 22/23 (July 1993) (special double issue on the Commission on Crime Prevention and Criminal Justice).

**Relevant United Nations standards on crime prevention and criminal justice include: (a) an independent judiciary, in line with the Basic Principles on the Independence of the Judiciary (see *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D); (b) a prosecutorial system in line with the Guidelines on the Role of Prosecutors (*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2, chap. I, sect. C, resolution 26, annex); (c) an independent body of lawyers, in line with the Basic Principles on the Role of Lawyers (ibid., sect. B, resolution 3, annex); (d) the role of police and other security forces, in line with the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (*Eighth United Nations Congress ...*, chap. I, sect. B, resolution 2, annex); (e) penal laws and laws of penal procedure in line with international standards in the administration of justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33, annex); (f) prison laws and regulations in line with the Standard Minimum Rules for the Treatment of Prisoners (see *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), and other related international instruments; and (g) the legal position of victims, in line with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex). In addition, other United Nations bodies have developed other related provisions, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46, annex) that have a direct impact on the realization of internationally guaranteed human rights. A comprehensive listing can be found in the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1).

***In this report, "international cooperation" means work involving actors from more than one country, directed at a common purpose.

perspective, the development of a stable infrastructure and the assurance of minimum requirements for well-being are preconditions for the success of criminal policy.

17. International cooperation in crime prevention and criminal justice may include a large number of activities: assistance in the drafting and reform of criminal law; the development of the organization and work of criminal justice agencies, the organization of key administrative agencies, such as the ministries; international legal assistance; the provision of protection and assistance to victims and the organization of training and research.

18. Contributions to crime prevention and criminal justice in the context of peace-keeping operations have become yet another important area of cooperation.[9]

19. International cooperation and technical assistance in crime prevention and criminal justice is growing. States are interested in helping their neighbours to prevent and control crime, in part to halt what is seen as a rising wave of crime that spills over national borders. This is true both of ordinary crime, and of environmental crime, drug trafficking, terrorism, economic crime and organized crime.* There are also obvious humanitarian concerns underlying much international cooperation in crime prevention and criminal justice, such as concern for the protection of the rights of the victim, the suspect, the defendant and the prisoner.

A. Recognizing the parties involved in cooperation

20. International cooperation and technical assistance** in crime prevention and criminal justice is at present being largely provided by Governments and governmental agencies. It is also being proffered through a number of intergovernmental organizations and international development agencies and funds.*** Within the United Nations Secretariat, in addition to the crime prevention and criminal justice programme, there are several other entities involved, such as the Centre for Human Rights, the United Nations International Drug Control Programme, the Department for Policy Coordination and Sustainable Development, the Department of Peace-keeping Operations, and the regional commissions. United Nations field operations also provide a vital bridge for translating international decisions into local action.

21. A variety of international and national non-governmental organizations and local professional, human rights and scientific associations, as well as academic institutions and even private individuals, are engaged in providing assistance, both directly and through the United Nations structures. Grass-root organizations serve the needs of small communities and are familiar with the interrelatedness of economic, social, human and sustainable development.

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*In the background document on the most effective forms of international cooperation for the prevention and control of organized transnational crime at the investigative, prosecutorial and judicial levels, prepared by the Secretariat for the World Ministerial Conference on Organized Transnational Crime, it was pointed out that "if transnational criminal organizations find one nation becoming less hospitable as a result of more vigorous and effective suppression activities, some of their members may simply move their base elsewhere. It is essential, therefore, to strengthen the States with weaker criminal justice and law enforcement systems" (E/CONF.88/4, para. 5).

**In the present paper, "technical assistance" means help or support designed to enhance the ability of the agencies responsible for crime prevention and criminal justice to carry out their functions, or to assist the community in similar activity. It serves the basic aim of international cooperation in seeking to enable the recipient State to make better use of its own human, natural and industrial resources.

***This includes such organizations as the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization, the World Bank, and regional development funds, the Organization for Economic Cooperation and Development, the International Criminal Police Organization, the Commonwealth Secretariat, the Council of Europe and the European Union.

B. The various forms of international cooperation

22. Technical cooperation takes various forms, according to the broad range of existing needs. The scope of technical cooperation should lead to:

(a) The adoption of measures at the national level in the fields of both legislation and crime prevention strategies;

(b) Implementation of efficient regional cooperation mechanisms through the elaboration of judicial and police cooperation agreements between States of a same region and a constant exchange of information and experience in all crime-related fields;

(c) Promotion of existing international instruments, as well as a global crime prevention policy, as decided by the international bodies competent in this field.

23. These goals call for a strengthened technical assistance capacity in order to provide countries in need with the necessary means for proper action at these three levels of objectives.

24. Multilateral agreements require that the States in question commit themselves to certain common rules agreed upon by all involved.* They are more difficult than bilateral agreements to draft, amend and terminate. The infrastructure necessary for the implementation of multilateral agreements often requires the investment of additional resources. At the same time, however, multilateral agreements provide a greater degree of stability to international cooperation. They represent an intention to create lasting rules and institutions based on mutual solidarity and shared responsibilities. Moreover, accession to a multilateral agreement relieves the State of the responsibility for entering into a number of different bilateral agreements, each of which may require different procedures. Finally, the extension of multilateral agreements on cooperation in crime prevention and criminal justice lessens the possibility that offenders can seek to evade justice by operating in or from, or escaping to, States that are not parties to such agreements.

25. Furthermore, the transition from multilateral agreements, which include some but not all States, to global agreements is in many cases a long one. There are several examples of global agreements that define certain crimes, for example, prohibiting the slave trade, the trade in women and children, the counterfeiting of currency, genocide, war crimes, terrorism and drugs.** The World Ministerial Meeting on Organized Transnational Crime, after an in-depth discussion, expressed the view that the question should be kept under close review. The General Assembly, in its resolution 49/159, took note with appreciation of the recommendations of the World Ministerial Meeting and approved the Naples Political Declaration and Global Action Plan against Organized Crime (A/49/748, annex). As to the possibility of elaborating international instruments, such as a convention or conventions against organized transnational crime, the World Ministerial

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*A list of multilateral treaties on criminal law issues is provided in M. C. Bassiouni, *A Draft International Criminal Code and Draft Statute for an International Criminal Tribunal* (1987), pp. 355-475.

**See Roger S. Clark, *The United Nations Crime Prevention and Criminal Justice Program: Formulation of Standards and Efforts at their Implementation* (Philadelphia, University of Pennsylvania Press, 1994). The United Nations has provided the framework for the drafting of, among others, the Convention on the Prevention and Punishment of the Crime of Genocide, of 1948 (General Assembly resolution 260 A (III), annex), the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, of 1973 (General Assembly resolution 3166 (XXVIII), annex), the International Convention on the Suppression and Punishment of the Crime of Apartheid, of 1973 (General Assembly resolution 3068 (XXVIII), annex), the International Convention against the Taking of Hostages, of 1980 (General Assembly resolution 34/146, annex), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of 1985 (General Assembly resolution 39/46, annex), and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 1988 (see *Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1980* (United Nations publication, Sales No. E.94.XI.5), document E/CONF.82/15).

Conference, in the Global Action Plan, requested the Commission on Crime Prevention and Criminal Justice to initiate the process of requesting the views of Governments on the impact of such a convention and on the issues that could be covered therein (ibid., sect. A, annex, para. 34).

C. Capacity-building cooperation

26. At present, the major part of technical assistance in crime prevention and criminal justice is provided on a bilateral basis. Assistance is focused on the improvement or reform of the existing criminal justice infrastructure: "capacity-building cooperation". Capacity-building can be done in many different ways: the provision of expertise, resources and financial assistance, research, the exchange of information and training. Capacity-building cooperation may be of particular assistance where structures need to be rebuilt entirely, for example in countries in transition and in newly emerging States.

27. *Expert assistance.* Assistance can take the form of expert advice on the reform and development of crime prevention and criminal justice, including the (re-)building and restructuring of institutions, administrative and legal reform, the drafting and reform of criminal law (either in general, or in special fields such as sentencing, juvenile offenders, or drug, environmental or economic offences); the development of the organization and work of the police, pre-trial procedures, the organization and work of the prosecutorial service, the bar and the courts, the enforcement of sentences, probation and parole; the organization of key administrative agencies such as the ministry of justice, the ministry of the interior (including the keeping of criminal records and crime statistics and the development of the technology of criminal justice); international legal assistance (extradition, the transfer of prisoners and so on); the protection of human rights in criminal justice, victim protection and assistance; crime prevention strategies (for example in respect of organized crime, economic crime, corruption, terrorism and violent crime); and the development of model curricula and appropriate training materials for criminal justice education.

28. *Material and financial assistance.* Direct material and financial assistance is another important segment of assistance. Donations range from various types of equipment, such as motor vehicles, personal computers and laboratory equipment for forensic analysis and copies of basic textbooks, to outright financial contributions. Donations in kind may meet the concerns of the donors regarding the mismanagement of funds, as in a number of countries there is a lack of proper administrative machinery to control and manage funds.* On the other hand, donations in kind must be tailored to the infrastructure and to specific needs.

29. *Exchange of information and experience.* The exchange can take the form of participation in international seminars, congresses and other meetings (either by arranging for foreign participants to go to meetings in the recipient State or by making it possible for practitioners and researchers from the recipient State to attend meetings elsewhere), the exchange of copies of court decisions, legislation, publications, newsletters, and other items of interest, service as a clearing-house for information, or the posting of liaison officers.

30. *Research.* To develop the management of criminal justice systems in a professional and systematic manner it is essential that reliable, comprehensive and up-to-date information should be available on the nature and extent of crime in the community and on the operations of all aspects of the system itself. Research may take the form of cooperative projects, where outside entities provide technical, methodological and financial support to studies that will help the development of crime prevention and criminal justice policy, law reform and administrative restructuring.

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*See, for example, the report of the African Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Kampala, Uganda, 14-18 February 1994 (A/CONF.169/RPM.2), chap. II, para. 17.

31. *Training.* Although the training of criminal justice practitioners is primarily a national concern, more and more attention is being paid to the benefits of international cooperation.* Training is important as a means of bringing about a change of attitude on the part of criminal justice practitioners. The mere installation of hardware or superficial training in new techniques will not secure the desired changes in operations. Wherever possible, practitioners should be given direct exposure to practice in other countries in carefully tailored projects, through study tours, hands-on training courses, exchanges of staff members or participation in education and public awareness activities. It can be directed either at the end-users, for example police officials, prosecutors, judges or prison officers, or it can seek to have a multiplier effect by being directed at trainers, such as teachers at police colleges or at training facilities for prison staff. It can also consist of the development of training curricula, manuals and basic course packages.

III. IMPEDIMENTS TO INTERNATIONAL COOPERATION AND TECHNICAL ASSISTANCE

A. Impediments to capacity-building cooperation

32. *Establishing priorities.* While it is recognized that different States have varying priorities with respect to criminal justice, a common starting point has to be identified. The question what the priorities are in crime prevention and in the reform of the criminal justice system in any given State is a different one from what priority is given to criminal justice as a whole in development. Developing countries and countries in transition must engage in a continuous balancing act between economic and market reform, constitutional reform, developing civil and administrative law, improving the infrastructure, providing basic social, health, housing and educational services, protecting the environment, developing local administration and external defence and so on.

33. *Criteria.* The question of what priorities in crime prevention and criminal justice should be set, will be answered differently by each actor; ultimately, they are often set in an ad hoc manner, by different authorities at different levels. The general subject and type of assistance will be determined largely by the capacity and political interest of those providing the assistance. The donors will not generally go outside their areas of expertise in an effort to meet what the recipient could deem to be a higher priority.

34. *The gaps and avoiding any overlapping.* Efforts to ascertain the usefulness of assistance and determine the priorities of development policy will not, by themselves, enable institutions to decide what should be done. Capacity-building cooperation involves many actors, who provide a wide variety of assistance to a great number of recipients. Because of the sheer number of actors and the broad range of assistance involved, problems of coordination are bound to arise. The overlapping and gaps in this network of people and organizations are huge. Apparently, those engaged in cooperative projects are often not aware of what others have been, or are, doing. As a result, certain agencies and institutions in a given country receive considerable assistance, while other equally well-deserving agencies and institutions fall between the cracks. These gaps may extend to entire countries. Over the past five years, for example, concern has been expressed that the developed countries' present focus on countries in transition has detracted from projects benefiting developing countries.

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*See, for example, the background document on the most effective forms of international cooperation for the prevention and control of organized transnational crime at the investigative, prosecutorial and judicial levels, prepared by the secretariat for the World Ministerial Conference on Organized Transnational Crime (E/CONF.88/4), sect. IV, paras. 33-35 and 37.

35. Overlapping may in itself be beneficial, in that repeated projects may strengthen the implementation of needed reform. Even those agencies and institutions that receive assistance from several sources may however, find that this leads to problems of its own, in the form of confusing and conflicting advice.[10]

36. *Verifying the utility of international assistance.* Ideally, any collaborative initiative should be preceded by an assessment of the actual needs of the recipient State. All too often, the projects implemented are based on a desire or an imperative to change the situation as soon as possible or the need to react to an emergency. Such projects may lead to a superficial improvement in the situation. More fundamental improvements are only possible, however, after a thorough examination of the current situation and available resources, as well as of the actual long-term needs.

37. Parties providing technical assistance may also have hidden agendas or assumptions, which may lead to problems. Some participants in cooperative projects appear to assume that the best thing beneficiaries of assistance can do is to remodel their system along the lines of the criminal justice system in the donor's own State. The difficulty here is that criminal justice is not, as such, an object for export. Ideas and concepts must always be tailored to the specific conditions in the host country. Otherwise there is a risk of the project being rejected out of hand or of becoming dysfunctional in a foreign environment.

38. Other questions relating to utility are more prosaic. Libraries in recipient States may appreciate receiving copies of journals, textbooks, studies and reports of new legislation or court cases, but it is not much use to send out-of-date reports or remaindered books devoted to arcane subjects, especially if they are in a language understood by few in the recipient State. Second-hand personal computers may find appreciative recipients, but may also turn out to be useless if not enough attention is paid to the questions of training, compatibility, available software or maintenance, user-support and the required infrastructure and resources.

39. *Cultural tailoring.* A cooperative project can either be part of a sustained effort or it can be a hit-and-miss effort. Far too often, for example, training seminars arranged on an ad hoc basis are not linked to overall plans for development, and for this reason cannot have the long-term impact that they should. Often such ad hoc events also suffer from poor planning. The substance is poorly thought out, the written materials have little informative value, the speakers are not sufficiently aware of the purposes of the meeting, insufficient attention is paid to cultural tailoring of the programme or to the need to overcome the language barrier, the participants are poorly selected and ill-prepared, not enough time is allowed for discussion, and so on. Proper preparation, timing and the use of rosters of experts can help to alleviate this situation.

40. Cultural tailoring may be easier if the project is carried out by multinational teams representing a diversity of views. Teams representing only one legal culture may raise the risk of a chauvinistic approach to criminal justice; they may tend to see the solution to problems in terms of merely transplanting their own approach to criminal justice to the host country. Monocultural teams may also be more subject to the risk of cultural misunderstandings. Bringing together practitioners from more than one legal culture can help to identify and overcome these dangers, and can also benefit the practitioners themselves by enhancing their understanding of the operation of criminal justice systems.

41. The role of non-governmental organizations, and grass-root organizations, in particular, in providing technical assistance at a local level should not be overlooked.[11] For example, such organizations might help African countries to reinforce indigenous solutions.

42. *Accurate information.* Up-to-date information is sometimes difficult to come by. An exchange of information compiled by other actors in the field may facilitate better communication.

43. *Finding suitable partners.* An appreciable number of cooperative projects develop on an ad hoc basis. Some partners in cooperation projects have noted cases where the assistance that they proffered had not had the desired impact because of the inability of their counterparts to use the assistance as intended. Simple examples include donations of documentation or personal computers that fail to reach those who need them. Another example is the case in which invitations to take part in study tours or invitations to meetings in donor States do not reach the persons who would be in the best position to use them and pass on to others what they have learned.

44. The identification of partners in cooperation will be influenced by various factors. One factor is the requesting side, often defined as the local counterpart. Planning missions and consultation with other institutions or organizations will facilitate the identification of other resource persons. Special attention should thus be paid to identifying local expertise and integrating experts into project planning and execution at the earliest possible stage. The involvement of local partners and experts will make it easier to adapt foreign concepts to existing national structures, as well as integrating them into those structures, thus responding to requests to reflect regional, national and local conditions and, as appropriate, cultural and other characteristics. The active participation of local experts and counterparts should also help to create a pool of knowledge that will enable them to carry on a given project on their own, for example by including a given topic in the national training scheme. Donors may, however, specialize in just one field of expertise, operate within a given structure or, at times, require the involvement of certain staff or organizations.

45. *Coordination.* A second issue related to the identification of a suitable partner concerns the level of contact, in other words, whether it should be at the highest policy-making level in the country, with middle-level management or with the "street-level" practitioner. Often, all three levels should be involved in some way. Those at the policy-making level should understand the need for whatever change is involved, and their political and financial commitment must be ensured. Middle management should be involved because that is where the day-to-day decisions on policy are made. Finally, the actual practitioners should understand the rationale for whatever reform is proposed. They must be made to feel that they are part of it, and that it is in their own interest to implement it. Otherwise, attempts at reform may miscarry.

46. The cooperative project should be seen as part of an incremental development of the criminal justice system of the host country. The projects should not be regarded in isolation from other ongoing or planned projects. Projects should be carried out in close consultation with the local office of the United Nations Development Programme (UNDP), and elements of the United Nations crime prevention and criminal justice structure, such as the network of institutes, with other units of the United Nations system, and with appropriate intergovernmental and non-governmental organizations. Projects should be placed within the framework of short-, medium- and long-term plans for development, possibly in the context of a country-specific master plan, in which specific objectives are identified for each component, and properly coordinated with other ongoing assistance projects. This would also help to secure the required long-term commitment, as well as long-term financial and political support.

47. *Follow-up.* It is desirable that a follow-up component be included to assess the impact, if any, of the project. In addition, a proper evaluation would ascertain the degree of accountability and feed-back, both to donors and recipients. An evaluation of the impact of ongoing and finished projects should also facilitate decisions on the desirability and feasibility of any follow-up or new projects requested in this area and make it possible to forecast the difficulties that might be expected during the execution of the project.*

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*For an overview of the elements to be considered in planning cooperation projects, see "Ten golden rules for international co-operation in crime prevention and criminal justice", in M. Joutsen, *International Cooperation: The Development of Crime Prevention and Criminal Justice in Central and Eastern Europe*, HEUNI Paper No. 2 (Helsinki, 1994), p. 3.

48. *Financial and political stability.* The existence of a relatively stable infrastructure will provide a favourable climate for more complex cooperative projects. Financial stability will help to ensure that the project is funded all the way through to the end; otherwise, a computerization project, for example, may fall by the wayside, leaving expensive computers in place, but no one trained to use them. Political stability will help to ensure that the senior policy makers are behind the project from start to finish, and can, if necessary, overcome any resistance at the lower echelons.

49. Conversely, it may be of particular importance for countries going through a period of instability to receive assistance in restructuring a criminal justice system, and advice on how best to guarantee minimum standards in criminal justice. In war-torn countries comprehensive projects may be required to rebuild the institutions of justice. In countries in transition, existing institutions may have to be restructured and legislation adapted to international requirements and standards. In such cases, however, an assessment has to be made as to when the point of relative stability, be it economical or political, has been reached to make the implementation of a specific project worthwhile.

B. Impediments to mutual legal assistance, extradition and other judicial cooperation

50. One specific area of practical cooperation, even though almost exclusively organized between Member States, is legal cooperation in criminal justice matters, including the apprehension of offenders who have fled across national borders, the gathering of evidence and testimony from witnesses in other countries, the international serving of summonses and communication of decisions, and the international enforcement of decisions and sentences. The basic impediment to enhanced international legal cooperation with respect to individual cases lies in the entrenched assumption of national sovereignty, the fact that the State traditionally recognizes no higher legal and constitutional authority than itself. For example, States are reluctant to extradite their own nationals to another jurisdiction. By the same token, sensitive political relationships between the requesting and the requested State may lead the latter to be reluctant to relinquish its sovereignty, even in respect of such matters as assisting in the serving of a summons to foreigners under its jurisdiction. Such reluctance may be coupled with a low level of awareness among both practitioners and policy makers in the requested State of the need for international cooperation.

51. A second major impediment lies in the differences that exist between national legal systems. Requests for extradition, for mutual assistance, and for other assistance in individual criminal cases often fail, owing to differences in the definition of criminal conduct, in the protection of personal property, in the right to refuse to incriminate oneself, in judicial safeguards, in the scope of "fiscal" offences, and in differences in evidentiary requirements and procedures.

52. Similarly, one reason for the failure of requests may lie in differences in national criminal policy: the definition of *ordre public*, requirements of dual criminality, political offence exceptions, the need for certainty, the importance of specified grounds for refusal of requests, protection of the national interests of the requested country, and the protection of nationals (for example, the widely applied rule that prohibits the extradition of nationals).

53. More practical difficulties may be found in the lack of information on requirements under the law of the other party (whether this is the requesting or the requested State), the unrealistic time-frames allowed for meeting a request, the financial and manpower costs involved, and the sheer complexity of some requests. Faced with such practical difficulties, practitioners who do not fully understand the need for international cooperation and who focus excessively on domestic priorities, may decide to refuse the request, or simply fail to fulfil it in time. This failure to understand how international cooperation can further domestic priorities, to say nothing of international priorities, is often linked with financial considerations. Assistance may be viewed as altruism and not as a learning process or as a mutually beneficial interaction.

IV. THE ROLE OF THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME IN PRACTICAL TECHNICAL ASSISTANCE

54. Effective, efficient and fair criminal justice systems are essential elements for promoting and maintaining social peace in accordance with respect for the rule of law.[12] The provision of technical assistance, training and advisory services in crime prevention and criminal justice in support of Member States has become one of the main activities of the United Nations crime prevention and criminal justice programme.

55. Within the United Nations system, the crime prevention and criminal justice programme is entrusted with all matters related to criminal justice. On the basis of the mandates received and under the policy guidance of the Commission on Crime Prevention and Criminal Justice, the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat is the only entity in the system specifically and exclusively charged with institutional responsibility for crime prevention and criminal justice, including the provision of technical assistance, advisory services and training. As a number of other United Nations entities continue to undertake selective activities in this area, due attention is being given to the coordinating and substantive role of the Commission on Crime Prevention and Criminal Justice in order to reduce to a minimum overlapping and duplication and to ensure that the Branch's substantive expertise is fully taken into account. The Branch is also the focal point for a worldwide network of crime prevention and criminal justice institutions. As the entity charged with promoting the implementation of United Nations standards and norms in crime prevention and criminal justice, the Branch not only acts a clearing-house for activities in this area but is also a repository of both institutional and individual knowledge and expertise.

56. Given its mandates, expertise, capacity and conditions of operation, the programme's existing advisory and training services offer the structure within the United Nations system for providing assistance in crime prevention and criminal justice to Member States. Efforts have been made to devise innovative approaches, including needs-assessment missions, project formulation, the development of training curricula and the organization of training courses and seminars.

57. The provision of technical cooperation is a cost-intensive activity, which requires financial, human and technical resources. The international community has consistently reaffirmed the importance of the United Nations' role in providing technical assistance in crime prevention and criminal justice and has called for vigorous fund-raising to strengthen the programme. The programme with its limited capacities and means carries out its tasks in part by itself, and in part, by creating "strategic alliances" with other entities in the field. Such alliances bring together the most appropriate Governments, governmental agencies and others in planning, implementing and evaluating technical assistance projects. In appropriate cases, activities are carried out jointly with other United Nations entities, such as the United Nations International Drug Control Programme or the United Nations Centre for Human Rights, and may include also representatives of potential donor countries, and selected international experts.

A. Restructuring of the programme in 1991

58. In 1991, the programme was reoriented so that more of its limited resources could be directed towards technical cooperation among Member States, and so that more of a focus could be placed on issues identified as priorities by the new Commission. One of the major reasons for the restructuring was the need to reinforce the programme's capacity to promote further international cooperation in light of the rapid growth of criminality, both domestically and across borders. This need was also made apparent by the repeated calls, particularly from developing countries, for urgent assistance.[13]

59. According to the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, the programme's goal is to "assist the international community in meeting its pressing needs in the field of crime prevention and criminal justice and to provide countries

with timely and practical assistance in dealing with problems of both national and transnational crime" (General Assembly resolution 46/152, annex, para. 15); the technical assistance to be provided under the programme includes "advisory services, particularly in respect of the planning, implementation and evaluation of crime prevention and criminal justice programmes, training and the use of modern communication and information techniques" (ibid., para. 17 (e)). As a result, an additional fourth subprogramme entitled "Operational activities, planning and overall coordination" was added to the medium-term plan for the period 1992-1997 and subsequently to section 13 of the proposed programme budget for the biennium 1994-1995.[14] While no other additional regular funds were made available, the allocation in section 20 of the proposed programme budget[14] (technical cooperation programme) for sectoral services in crime control was somewhat increased, to the extent that the number of interregional advisers could be increased from one to two. The inclusion of technical assistance as a recurrent item for consideration by the Commission on Crime Prevention and Criminal Justice and as a major item of the Ninth United Nations Congress also reflect the new emphasis placed by Member States on operational activities as a prime means of strengthening the practical orientation of the programme.

60. The continued strengthening of operational activities and advisory services[15] has also been a major concern of subsequent international meetings, including the World Ministerial Conference on Transnational Organized Crime.[16] The General Assembly, in its resolution 49/158, reiterated yet again the need to strengthen the United Nations crime prevention and criminal justice programme, particularly as to its technical cooperation capacity.*

B. Programme capacities

61. *The programme.* The United Nations crime prevention and criminal justice programme has, over the years and within its limited capacities, provided technical assistance. The programme has two strengths: the availability of interregional advisory services and the steadily evolving capacity to assist Member States in concert with the network of interregional and regional institutes and other agencies. For the interregional advisory services, the proposed programme budget for the biennium 1994-1995,[14] specifically identifies three main types of technical cooperation activities, namely the provision of short-term advisory services, field projects and training. The Branch's new subprogramme on operation, coordination and evaluation designs, implements and follows up projects, coordinates related activities under the other subprogrammes and provides support services to the activities of the two interregional advisers on crime prevention and criminal justice.

62. *Crime Prevention and Criminal Justice Fund.* This voluntary Fund, which receives both earmarked and unearmarked financial donations and donations in kind, was created to carry out projects, establish posts, recruit staff to undertake programme activities, and recruit consultants. Contributions to the Fund are also used to cover expenses for the preparation and hosting of training seminars, expert group meetings and other conferences, the preparation and production of training material and other publications, advisory services and technical equipment for operational activities, and scholarships. Moreover, the contributions are supposed to go towards needs assessment and project formulation missions, as well as the implementation of projects on priority themes. While there appears to be a growing openness on the part of Governments in general to support technical cooperation activities by contributing to the Fund, demand still vastly outstrips resources. Despite several communications inviting contributions to the Fund (for example, letters from the Director-General of the United Nations Office at Vienna and lists of projects and funding requests submitted to the

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*Regarding the general calls for strengthening of the crime prevention and criminal justice programme, including the eventual establishment of a D-2 post and the upgrading of the Crime Prevention and Criminal Justice Branch to a division, see the report of the Secretary-General on progress made in the implementation of General Assembly resolutions 46/152, 47/91 and 48/103 (A/49/593), sect. IV, and General Assembly resolution 49/158.

Commission on Crime Prevention and Criminal Justice), only a small number of Member States have contributed to the Fund. This may be due to the fact that resources for technical cooperation are limited. The fact that criminal justice did not in the past figure on the agenda of economic development may be another factor behind the present reluctance of States to contribute. Although it may take time to change this situation, a more substantive contribution by the programme to the reinforcement of good governance and the strengthening of the rule of law will not be feasible without adequate resources.

63. *In-kind contributions.* The Branch had its capacity strengthened by the active support of seven Governments* through the United Nations Associate Expert Programme. These Governments provided the funds for young professionals from their respective countries to work within the programme for two or more years. Other Governments have donated the services of short-term and long-term consultants to the Branch** or contributed to the funding of the institutes that comprise the United Nations crime prevention and criminal justice programme's network of institutes.[17]

64. *The programme network.* The role of the Branch in technical cooperation is facilitated by the large number of institutions and relationships available to the programme, such as the network comprising the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the European Institute for Crime Prevention and Control, affiliated with the United Nations and the African Institute for the Prevention of Crime and the Treatment of Offenders, as well as the Arab Security Studies and Training Centre, the Australian Institute of Criminology, the International Centre for Criminal Law Reform and Criminal Justice Policy, the International Centre for the Prevention of Crime, and the International Institute of Higher Studies in Criminal Sciences.*** In addition, the Branch draws on a pool of individual experts, as well as those provided by Governments and the large non-governmental community and other organizations working in this field.****

65. *Types of assistance.* Based on the policy guidance provided by General Assembly resolution 46/152 and within the priority areas defined by the Commission on Crime Prevention and Criminal Justice, the programme now focuses on offering the following kinds of technical assistance and advisory services:

(a) Needs assessment and fact-finding missions;

(b) Assistance in the planning and implementation of national criminal justice schemes;

(c) Planning and implementation of specific projects;

(d) Training and education, workshops, seminars, expert meetings;

(e) Development of curricula and training material;

(f) Expert assistance and advisory services on substantive legal and administrative issues, including law reform and the administration of justice (including police, prosecutors, magistrates and judges, lawyers and prison staff), alternative conflict resolution;

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*Austria, France, Germany, Italy, Japan, Republic of Korea and Sweden.

**Austria and France donated the services of long-term consultants.

***For a more detailed description of the activities of the institutes see the progress report of the Secretary-General on the activities of the United Nations Interregional Crime and Justice Institute and other institutes (E/CN.15/1994/10 and Corr.1).

****Additionally, there is a regional adviser on crime prevention and criminal justice, financed from extrabudgetary resources, working with the Economic Commission for Asia and the Pacific. Since the adoption of General Assembly resolution 46/152, this infrastructure has been supplemented by the creation of the International Scientific and Professional Advisory Council.

(g) Exchange and dissemination of information and experience, and studies and research;

(h) Coordination of assistance projects, funding requests, financial and material assistance of donors.

66. These activities are aimed at establishing a functioning criminal justice system as part of a democratic society, reflecting the international standards and norms in crime prevention and criminal justice. Additionally, the projects seek to create and strengthen national, subregional and regional structures that ensure a proper balance between the rights of individuals, including the victims of crime, the concerns of society for public safety and crime prevention under the rule of law. Activities take into account the criteria for setting programme priorities in responding to requests of Member States set out by the General Assembly in paragraph 21 of the annex to its resolution 46/152.

C. Programme activities

67. Programme activities, and some of the impediments to providing technical assistance, are summarized below. More detailed information on the technical assistance programme may be found in the reports of the Secretary-General to the Commission on Crime Prevention and Control,[18] the Economic and Social Council,[19] and the General Assembly.[20]

68. *Criteria for setting programme priorities.* The General Assembly, in its resolution 46/152, defined the criteria for setting programme priorities in responding to requests of Member States. Particular consideration is given, accordingly, to the following:

(a) Empirical evidence on the nature and extent of crime and on trends in crime;

(b) The social, financial and other costs of various forms of crimes and/or crime control;

(c) The need of developing or developed countries, which are confronting specific difficulties related to national or international circumstances, to have recourse to experts and other resources;

(d) The protection of human rights in the administration of justice and the prevention and control of crime;

(e) The assessment of areas in which concerted action at the international level and within the framework of the programme would be most effective;

(f) Avoidance of overlapping with the activities of other entities of the United Nations system or of other organizations.

69. Additional practical considerations could include:

(a) The practicality and expected effect of the proposed activity in the area in question, specifically in the light of available resources and access to information;

(b) The knowledge and expertise available or likely to be available through the United Nations programme;

(c) The activity or proposed activity of other bodies or organizations engaged in the same field, and the potential for incremental development of projects;

(d) The importance of the area in question, as determined by the Commission on Crime Prevention and Criminal Justice.

70. *Expert assistance.* Assistance can take the form of expert advice on the reform and development of crime prevention and criminal justice, including the (re-)building and restructuring of institutions, administrative and legal reform. The interregional advisers to the United Nations crime prevention and criminal justice programme have, over the years, carried out over 100 missions at the request of individual Governments to advise them on a broad range of issues.[17] The United Nations crime prevention and criminal justice programme has organized needs assessment missions to various countries, in appropriate cases jointly with other United Nations entities such as the United Nations International Drug Control Programme and the Centre for Human Rights, to discuss new approaches with the relevant authorities and suggest ways in which these approaches can be implemented. Based on these assessments, additional expertise can be made available and specific project proposals can be formulated.

71. *Provision of expertise.* Many countries have difficulty in identifying suitable approaches to specific problems in crime prevention and criminal justice and in identifying suitable specialists. Although differences in cultural, economic, legal, political and social circumstances may inhibit the direct adoption of approaches tried elsewhere, such models may be suitable for tailoring to the national or local circumstances, especially among groups of countries linked by a common history and traditions. Foreign specialists, including governmental, non-governmental, academic and scientific institutions, may be of use in this process. The programme can assist in identifying suitable experts.

72. *Short-term advisory services.* Short-term advisory services can be made available in cases when the specific problem can be dealt with on a short-term basis and does not fall within the scope of an already-funded project. The main purpose of these services is to provide advice as a basis for immediate government action or, in the case of broader needs, to lay the groundwork for meeting them through the identification and formulation of projects for submission to potential financial sources.[21]

73. *Field projects.* Field projects may originate either in response to specific government requests or in proposals formulated by the programme to meet needs singled out for priority action by the Commission on Crime Prevention and Criminal Justice. They have to be pilot projects of an innovative nature, the results of which can be given wider application. They will therefore be mainly interregional, designed to test and put into effect new approaches to development needs or to fill gaps where funds from other sources are insufficient to cover areas given high priority by the Commission.[21] In view of their model character, the close monitoring of such projects is particularly important.

74. *Legal assistance.* While there is considerable debate about creating an international jurisdiction for certain types of crime,* the United Nations crime prevention and criminal justice programme at present has no mandate to deal with individual cases and offenders. None the less, the programme can offer viable support to Member States in this area. Apart from the provision of a platform to improve cooperation among States, the programme may also assist in improving the framework for dealing with individual cases and offenders.

75. The United Nations has adopted model instruments on the transfer of foreign prisoners,[22] extradition (General Assembly resolution 45/116, annex), mutual assistance in criminal matters (General Assembly

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*The United Nations, in a few and very clearly defined substantive and geographical areas, has a mandate to deal with individual cases of crime. This may be at the level of fact-finding and special investigations and of the prosecution of war crimes. As mentioned, the discussion on the creation of a general international jurisdiction, at least for certain types of crime, and related instruments continues without a clear consensus of views emerging so far.

resolution 45/117, annex), the transfer of proceedings in criminal matters (General Assembly resolution 45/118, annex), and the transfer of supervision of offenders conditionally sentenced or conditionally released (General Assembly resolution 45/119, annex). These model instruments serve as a useful framework for drafting bilateral or multilateral agreements.* Guides to the use and implementation in national legislation of the model treaties on mutual assistance and extradition are currently being prepared by the Branch, with the assistance of national experts.

76. The United Nations offers support in the formulation and implementation of such agreements, based on the model texts. Support could take the form of assistance in the organization of training, the provision of training materials and advisory services in the areas mentioned above. The training provided by the United Nations may enable policy makers and practitioners to deal more effectively with these issues, as well as rendering assistance in negotiating treaties and reviewing legislative requirements. The development of model legislation for national implementation may be another way of supporting such efforts.

77. The United Nations could also identify issues that need further regulation through such agreements, urge wider accession and ratification of existing agreements, as well as accession by successor States, help in determining the impediments to fuller implementation of existing agreements and review relevant legislation.

78. More consideration will be given in the future to the identification of model aid and assistance projects. These could be used in different jurisdictions and submitted to potential donors for consideration. For example, States that are experiencing an increase in money laundering may benefit from a package, based on the experiences of other States, that brings together model legislation, guidelines for financial institutions and for investigation, training programmes and a research component.

79. *Financial assistance.* A number of developing countries and countries in transition seeking to improve the rule of law in criminal justice have requested financial assistance for strengthening their institutions and for criminal justice reform measures. With the limited funds available, the programme was not in a position to meet any such requests for direct financial assistance.

80. *Training.* Although the training of criminal justice practitioners is primarily a national concern, more and more attention is being devoted to the benefits of international cooperation (see, for example, E/CONF.88/4, paras. 33-35 and 47). Training is important as a means of bringing about changes in attitude on the part of criminal justice practitioners. The mere installation of hardware or superficial training in new techniques will not ensure the desired changes in operations. Wherever possible, practitioners should be exposed to practice in other countries in carefully tailored projects, through study tours, hands-on training courses, exchanges of staff members or participation in education and public awareness activities. The training can be directed either at the service providers, for example, police officials, prosecutors, judges or prison officers or it can seek to have a multiplier effect by being directed at trainers, such as teachers at police colleges or at prison staff training facilities. Other options include the development of training curricula, manuals and basic course packages.

81. While training needs are often met through short-term advisory services and field projects, a portion of the programme's resources is allocated to specially tailored training. This work is carried out mainly through relatively small group-training activities (for example, seminars and workshops) in areas with a potential multiplier effect, organized for national staff with policy-making, planning and management responsibilities in criminal justice. Other types of training will also continue, for example, training for practitioners.[21] The crime prevention and criminal justice programme has also prepared training material on such issues as

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*The texts of all the instruments are contained in the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1).

domestic violence, law enforcement, prison administration and prison health. It has carried out its own training programmes and regularly contributed to training courses organized by other entities on a broad range of topics. Project documents on other issues have been developed, but only a few could be implemented owing to lack of funds.[23]

82. *Peace-keeping.* Contributions to crime prevention and criminal justice in peace-keeping operations have become yet another important area in which the programme has evolved.[9] The crime prevention and criminal justice programme also offered training related to peace-keeping missions. The programme was involved at an early stage in needs assessment missions to Cambodia, Haiti, Palestine and Somalia. It has provided pre-mission training on criminal justice matters for United Nations emergency mission staff. The programme has also provided training on United Nations standards and norms for the civilian police components (CIVPOL) of United Nations peace-keeping operations (A/49/593, paras. 70-76) and has offered training for local counterparts. In line with General Assembly resolution 49/158, the programme will continue to develop basic courses, which can be used as necessary for training peace-keeping and emergency mission personnel, and, at the request of Member States, their national counterparts.

83. *The clearing-house concept.* On the basis of recommendations by the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council, in a number of its resolutions, has requested that databases be developed which would be of immediate relevance to policy matters and unique in their global coverage. These databases should, on the one hand respond to requests from Member States for certain types of information and, on the other hand, facilitate the programme's coordination functions. It was suggested that such databases should be integrated into a broader concept of a clearing-house.

84. Certain clearing-house functions are already under way or being prepared within the programme network. The Economic and Social Council in its resolution 1986/11, established the United Nations Crime and Justice Information Network (UNCJIN) as a link between national institutions, organizations and individuals involved in crime prevention and criminal justice, including the institutes of the United Nations programme network and non-governmental organizations.[24] At the global level, efforts are also under way to establish a more wide-ranging information clearing-house, provisionally called United Nations Crime and Justice Clearing-house (A/CONF.169/13/Add.1). Activities at the regional level include surveys on technical assistance in criminal justice (European Institute for Crime Prevention and Control, affiliated with the United Nations and Latin American Institute for the Prevention of Crime and the Treatment of Offenders), on criminal justice expertise (UNICRI, International Scientific and Professional Advisory Council), and on drug-related law enforcement activities (United Nations International Drug Control Programme). These projects, however, are limited in scope, with respect to subject (for example strictly drug-related) and geographical coverage (for example to a region or subregion) or both.

85. One of the tasks would be to integrate such information, which may be available in widely differing formats, into any new clearing-house at the programme level. Any effort to establish similar databases on a global level would have to take into account their experience and to incorporate any information already in existence.

86. In order to be effective, a clearing-house would need the active support of Member States to feed in up-to-date information. It might also require a reorientation from a strictly bilateral to a more multilateral perspective in project planning and implementation. A fully functioning clearing-house would require resources for collecting, processing and disseminating data in response to inquiries. Experience has shown that data-collection may be very resource-intensive. Questionnaires do not seem to be an altogether satisfactory source for comprehensive reliable quantitative and qualitative data. A country-by-country approach, combining both questionnaires and interviews with representatives of various agencies, both among donor countries and recipient countries, may be a better, but more expensive, strategy.

87. *Data on requests and offers of assistance.* A large number of entities are involved in international cooperation. Duplication of efforts and resources is a key problem. This difficulty can be overcome through an improved flow of information among those providing, and those benefiting from, technical assistance projects. Donors need to coordinate their activities among themselves, and recipients need to coordinate them within their national systems, as well as with neighbouring States or other countries with similar needs.* Such an undertaking would be cost-effective and would cut down on the time taken to respond to requests. While initially requiring a greater investment of resources, in the long run the establishment of a clearing-house on criminal justice projects could lead to a better allocation of resources at a time of economic austerity. Gaps in assistance could be more easily identified, as could potential partners in cooperative projects, opportunities for collaborative action and particular sources of information or expertise in the various countries, and support for an incremental approach in development could be improved. As emphasized at one of the regional preparatory meetings for the Congress, this could have more general implications for the development of bilateral and multilateral technical assistance projects, both within and outside the framework of the programme (A/CONF.169/RPM.3 and Corr.1, para. 8). Additionally, as the number of requests directed to the programme exceeds its present capacity to provide direct assistance, it will help to be able to identify the readiness of other entities to help.

88. *Data on available expertise.* The difficulties of countries in identifying suitable approaches and specialists have been mentioned. An inventory of available specialists could be incorporated with an inventory of institutional expertise, such as programmes and mechanisms that have proved effective, and government agencies with expertise and innovative approaches. With this in mind, the programming is focusing on the identification of expertise in the priority areas designated by the Commission.

89. *Data on model legislation.* Regarding model legislation, the foundation of a database could comprise information on how United Nations conventions, model treaties, standards and norms have been or could be implemented in practice. It could also include information on model legislation developed at the regional or national levels. Collection would have to focus on priority areas of the programme.

90. *Data on manuals and training curricula.* Despite the differences in cultural, economic, legal, political and social circumstances, the problems in crime prevention and criminal justice share a universal character. Practitioners in jurisdictions around the world encounter similar problems in responding, for example, to juvenile delinquency, domestic violence, economic crime or corruption. Approaches that have proved successful in one jurisdiction may be adapted for use in another. For this reason, clearing-house functions could include provision of information on manuals and training curricula for different categories of personnel. The identification of appropriate manuals and training curricula would require an intensive and regular out-reach programme. In addition, even cataloguing, translating (as appropriate), reproducing and disseminating training materials may be quite cost-intensive. In the long run, however, such an endeavour should yield better results for current justice operations, as instead of the current rather uninformed and ad hoc identification of material, there could be an in-depth and comprehensive guidance on most suitable training tools.

91. *Information on standards and norms.* At all the regional preparatory meetings for the Congress, Member States stressed the relevance of United Nations standards and norms in strengthening the rule of law.** If Member States are to comply with the mandates calling for dissemination and implementation of the United Nations standards at the national level, the relevant texts have to be available and easily

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*Accordingly, the Economic and Social Council, in its resolution 1994/22, had invited Member States to include projects on crime prevention and criminal justice as part of their priority areas for development and urged them to coordinate their multilateral and bilateral technical cooperation projects with the United Nations crime prevention and criminal justice programme.

**See, for example, A/CONF.169/RPM.2, para. 22.

accessible. The inclusion of the standards and related information, so far disseminated only by conventional means, in a broader clearing-house concept, particularly with a perspective of making standards accessible electronically, could facilitate this task.

92. *Country data.* Information is currently available on the criminal justice systems and on crime trends in different countries, using the data made available by Member States in response to the United Nations surveys of crime trends and operations of criminal justice systems (A/CONF.169/15). In this context, it should be recalled that recently the periodicity of the surveys was altered from a five-year reporting cycle to a two-year cycle (Economic and Social Council resolution 1992/22, sect. I). While this is a very welcome development, there is clearly a need to administer the surveys accordingly. Given the difficulties in verifying information provided by a multitude of sources, validation costs could be kept at a minimum by, first of all, a more thorough reporting of data by countries.* At a later stage, the clearing-house could be expanded to include, for example, information on relevant reports of national commissions and committees, comparative research results, and crime and criminal justice statistics, in greater detail than is done in the Surveys. An expansion of the clearing-house would, however, still require a considerable investment of resources for the selection, collection, translation and formating of the data entered.

93. *Research.* Research can provide valuable data for criminal justice reform.[25] While the regional preparatory meetings for the Congress called for intensified efforts in field research, the Branch and almost all of the elements of the United Nations programme's network, depending on general mandates and specific requests, are already engaged in research projects** on priority themes identified by the Commission (see E/CN.15/1994/10). Examples include the work of UNICRI, of the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the European Institute for Crime Prevention and Control, affiliated with the United Nations and the African Institute for the Prevention of Crime and the Treatment of Offenders.***

V. CONCLUSIONS AND RECOMMENDATIONS

A. A new strategy for international cooperation and technical assistance

94. At the international level, crime prevention and criminal justice is a fairly recent field for technical assistance. It has, however, been developing over the last few years, thanks to a number of national

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*Indeed, in the questionnaire for the Fifth United Nations Survey of Crime Trends the respondents are urged to scrutinize the data carefully against several parameters. This will, it is hoped, limit the amount of time spent on data validation by the Secretariat, which at present has to request respondents to explain unusual changes in crime trends.

**One long-term example is the work on the preparation and analysis of the United Nations surveys of crime trends and operations of criminal justice systems, carried out with contributions by and with the active cooperation of all institutes (see A/CONF.169/15).

***UNICRI, amongst many other activities, is studying victimization in a number of developing countries and countries in transition. For more details on this (see A/CONF.169/6); the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders has, *inter alia*, prepared regional surveys on drug offences, criminal justice information, urban criminality and other topics, including national research projects; the activities of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders included regional research on drug-related crime and the improvement of the administration of penal justice, strengthening of judicial libraries, women, justice and gender, street children and a number of other subregional and national activities; the European Institute for Crime Prevention and Control, affiliated with the United Nations has dealt, *inter alia*, with criminal law in environmental protection, a victimization survey, a needs assessment in computerization, and prison health and issues related to acquired immunodeficiency syndrome (AIDS) and research activities by the African Institute for the Prevention of Crime and the Treatment of Offenders included victimization, criminal law procedures and reform, and the interrelationship between development and criminality.

initiatives, in specific areas, on an ad hoc basis. In view of the crucial role of criminal justice in building or strengthening the rule of law, a comprehensive strategy for technical cooperation is needed.

95. On the basis of General Assembly resolution 46/152, the crime prevention and criminal justice programme has redirected its focus in the last three years to providing technical assistance to Member States. The programme has received some funds for this purpose, particularly through the interregional advisory services, but these services are still insufficient to deal with the numerous requests submitted.

96. The Commission on Crime Prevention and Criminal Justice and its secretariat, the Crime Prevention and Criminal Justice Branch, are entrusted with coordinating technical assistance in this field within the United Nations system.

97. Thus, the programme today is at a crossroads: it must determine whether it can meet more effectively all the expectations placed on it. The direction it will take will ultimately depend on the political will of Member States to enhance international cooperation for more effective action in strengthening the rule of law.

98. Only with the active involvement and support of Member States can the programme reach these goals.

99. Bearing in mind the points raised above, and taking into account the recommendations of its five regional preparatory meetings (A/CONF.169/RPM.1/Rev.1 and Corr.1, A/CONF.169/RPM.2, A/CONF.169/RPM.3 and Corr.1, A/CONF.169/RPM.4 and A/CONF.169/RPM.5), the Ninth Congress may wish to consider the recommendations set out below.

1. At the national level

100. Member States should consider:

(a) Ratifying existing international instruments, and reviewing their legislation with a view to implementing these instruments in their national legislation and practice;

(b) Promoting the use and application of United Nations standards and norms in crime prevention and criminal justice, *inter alia*, through the training of criminal justice professionals;

(c) Enhancing national and local policy planning in the field of crime prevention and criminal justice by conducting extensive and diagnostic research and evaluation;

(d) Establishing a nation-wide coordination body to be responsible for coordinating and giving guidance with respect to providing or receiving assistance in criminal justice.

2. At the regional and international levels

101. Member States should consider:

(a) Making efforts to harmonize relevant legislation;

(b) Organizing study tours and the exchange of criminal justice officials, with a view to promoting mutual understanding and developing joint strategies to overcome common problems;

(c) Developing field research in criminal matters, studying the functioning of penal systems and exchanging the information obtained, especially in priority areas, and seeking to establish international data banks.

102. Regional organizations could:

(a) Serve as a forum for policy development;

(b) Assist in devising appropriate mechanisms for cooperation and assistance.

103. International organizations, funding agencies and non-governmental organizations should include, in their own policies, crime prevention and criminal justice as an area for practical assistance.

104. The United Nations should:

(a) At the regional level, and through its regional commissions and the network of affiliated or associated regional institutes, assist Member States in their endeavours to strengthen the rule of law through technical assistance;

(b) At the global level, elaborate and implement technical assistance projects devoted to strengthening the rule of law, seeking the support of the United Nations Development Programme, the World Bank and other funding agencies;

(c) Strengthen its clearing-house and broker functions through the United Nations Crime and Justice Information Network;

(d) Continue to include in its peace-keeping operations the re-establishment and reform of criminal justice systems.

105. Governments, relevant international organizations, intergovernmental and non-governmental organizations are invited to continue cooperating with the United Nations in the various areas of crime prevention and criminal justice.

B. Strengthening the United Nations crime prevention and criminal justice programme

106. The programme capacity could be strengthened as indicated below:

1. Advisory services and assistance capacity

107. *Resource mobilization.* Notwithstanding the notable, but still modest, increase of funds, the resources available for the programme and its interregional advisory services under the regular budget of the United Nations are not sufficient to meet the large backlog in demands. Additional funds are therefore required.

108. *Increased staffing.* In spite of the efforts of the staff, the programme, without additional human resources, will not be able to respond adequately to present or future calls for assistance, or to follow up on the recommendations of the advisory services. Increased resources should also allow for a higher degree of specialization, both in substantive matters and in the administration of technical assistance projects.

109. *Interregional advisory services.* The activities, particularly in developing countries, of interregional advisory services have proved to be a rich resource to the programme. In particular, these services have helped developing countries to formulate their requests for technical assistance. In order to increase their impact, additional means should be provided.

110. *United Nations Associate Expert Programme and in-kind contributions.* At present, the United Nations crime prevention and criminal justice programme receives the active support of seven countries that have

joined the United Nations Associate Expert Programme. Other countries have seconded staff, both on a short-term and a long-term basis, to support the work of the Branch. Governments are therefore encouraged to continue or adopt this practice.

*2. The Crime Prevention and Criminal Justice Fund**

111. *Project implementation.* To improve the programme's effectiveness in responding to requests for assistance, funds-in-trust will have to increase to cover expenses for technical assistance projects and items such as training seminars, expert group meetings, the preparation of training material, technical equipment for operational activities, including support in institution-building and institutional reform, rebuilding the criminal justice infrastructure, and other activities, such as equipping law libraries or granting scholarships.

112. *Capital assistance.* With the limited funds available, the programme was not in a position to meet requests for direct financial assistance for measures to strengthen institutions and bring about criminal justice reform, for the improvement or rehabilitation, of institutions, for criminal justice education or the like. Particularly for the least developed countries and countries in transition seeking to improve the rule of law in criminal justice, additional financial assistance will be required for appropriate measures.

113. Member States, funding agencies and other institutions are therefore invited to contribute to the Crime Prevention and Criminal Justice Fund, with a view to implementing existing and future technical assistance projects. They are also invited to support the programme actively in organizing and carrying out operational activities in developing countries and countries in transition, by means of substantive and extrabudgetary contributions.

C. Designation of a United Nations crime prevention and criminal justice day or week

114. Designating a special international event, such as a United Nations crime prevention and criminal justice day or week, could serve to highlight the problems of crime at the global level and to emphasize the need for local, national and international action. Such an event could also offer an opportunity to create a wider awareness of the work of the United Nations crime prevention and criminal justice programme among the public, practitioners and policy makers. It could also offer an occasion to bring together potential donors and recipients of technical assistance.

D. A blue-print for practical action

115. The Ninth Congress, drawing on the recommendations of the regional preparatory meetings, the plenary discussion and the results of the workshops, will propose specific orientations and recommendations for practical action, focusing largely on concrete technical assistance projects. The recommendations of the Congress could be considered by the Commission on Crime Prevention and Criminal Justice at its fourth session, as a basis for agreeing on a blue-print for action.

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*For more information on the Crime Prevention and Criminal Justice Fund, see E/CN.15/1994/6, annexes II and III.

Notes

[1]*Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. B.

[2]Ibid., sect. A.

[3]*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2).

[4]Discussion guide [for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders] (A/CONF.169/PM.1 and Corr.1, para. 11).

[5]Uglješa Zvekić, ed., *Essays on Crime and Development*, United Nations Interregional Crime and Justice Research Institute publication No. 36 (Rome, 1990).

[6]See Boutros Boutros-Ghali, *An Agenda for Development, 1995* (United Nations publication, Sales No. E.95.I.16), p. 45.

[7]John Hatchard, "Victims of crime and abuse of power in Africa: an overview", in Gunther Kaiser, Helmut Kury and Hans-Jorg Albrecht, eds., *Victims and Criminal Justice* (Freiburg im Breisgau, Max Planck Institute for Foreign and International Criminal Law publication No. 52/2), pp. 691-692.

[8]"The new colonialism", *Newsweek*, 1 August 1994.

[9]See the report of the Secretary-General on progress made in the implementation of General Assembly resolutions 46/152, 47/91 and 48/103 (A/49/593), paras. 70-76.

[10]Boutros Boutros-Ghali, op. cit., pp. 49 and 50.

[11]Report of the African Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.169/RPM.2), chap. II, para. 20.

[12]*Our Global Neighbourhood: The Report of the Commission on Global Governance* (New York, New York, Oxford University Press, 1995), chap. VI, "Strengthening the rule of law wordwide", p. 303.

[13]See General Assembly resolution 46/152, see also the report on the meeting of the Intergovernmental Working Group on the Creation of an Effective International Crime and Justice Programme, held at Vienna from 5 to 9 August 1991 (A/CONF.156/2), chap. II, sect. A, paras. 34-36; and *Crime Prevention and Criminal Justice Newsletter*, Nos. 22/23 (July 1993) (special double issue devoted to the Commission on Crime Prevention and Criminal Justice).

[14]*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 6* (A/47/6/Rev.1).

[15]*Official Records of the Economic and Social Council, 1992, Supplement No. 10* (E/1992/30), chap. III.

[16]Report of the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994 (A/49/748, annex), chap. I, sect. A, draft resolution recommended for adoption by the General Assembly, annex, paras. 41 and 45.

[17]See the report of the Secretary-General on technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme, including appropriate measures for the mobilization of resources (E/CN.15/1994/6).

[18]Report of the Secretary-General on technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme (E/CN.15/1994/6); and report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1994/7).

[19]Report of the Secretary-General on progress made in the implementation of Economic and Social Council resolutions 1992/22 and 1993/31 (E/1994/13), paras. 59-66.

[20]See the report of the Secretary-General on progress made in the implementation of General Assembly resolutions 46/152, 47/91 and 48/103 (A/49/593) and the working paper prepared by the Secretariat under topic III, entitled "Criminal justice and police systems: management and improvement of police and other law enforcement agencies, prosecution, courts and corrections, and the role of lawyers (A/CONF.169/6).

[21]*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 6* (A/47/6/Rev.1), part V, sect. 20.

[22]See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.

[23]See *Crime Prevention and Criminal Justice Newsletter*, Special double issue Nos. 22/23 (July 1993), annex I.

[24]Progress report of the Secretary-General on the United Nations Crime and Justice Information Network - present and future dimensions: towards the establishment of a United Nations crime and justice clearing-house (A/CONF.169/13/Add.1); background paper for the workshop on international cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of criminal justice information (A/CONF.169/13); report of the Secretary-General on progress made in the implementation of General Assembly resolutions 46/152, 47/91 and 48/103 (A/49/593), paras. 77-79.

[25]See A/CONF.169/5, A/CONF.169/13 and *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: Report Prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C, resolution 16.